

ARTICLE 18 - SIMULCASTING LICENSES

112-18-1. Reserved.

112-18-2. Application procedure for simulcasting applicant. (a) Any qualified organization licensee, as defined by 1992 SB 383, Sec. 2 may apply to the commission for a simulcasting license to display horse races or greyhound races, or both, on which parimutuel wagering is permitted.

(b) If the organization licensee is conducting races at a racetrack facility that is owned by a facility owner licensee, both licensees shall join in the application. Each application shall be verified under oath by the authorized officer or officers of the applicants, and each original shall be manually signed in ink.

(c) Each application shall be completed in a form approved by the commission.

(d) Each application and any attached documents required by these regulations shall be submitted as a single package. An original and six copies of the application and documents shall be filed with the executive director at the commission offices.

(e) For the 1992 calendar year, each application for a simulcasting license shall be filed at a time established by the commission to facilitate the development of a simulcasting schedule for the initial year of implementation. Beginning with the 1993 calendar year, each application for a simulcast license shall be filed at least 45 days before the beginning of the calendar year.

(f) Each simulcasting license shall be granted only upon the condition that the holder and each of its officers, directors, employees and agents shall accept, observe and enforce the regulations of the commission.

(g) Each simulcasting license shall expire at midnight on December 31 of the calendar year for which it was granted.

(h) The receipt of a simulcasting license does not vest in the simulcasting licensee any right to a subsequent simulcasting license. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992;

effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-3. Application form for simulcasting applicant. (a) Each application for a simulcasting license shall contain the following:

(1) the name of the applicant or applicants, their business address or addresses, and their telephone number or numbers;

(2) the name, address, and telephone number of any individual who assisted the applicant or applicants in preparing their application;

(3) the written approval for the proposed simulcasting schedule from the recognized horsemen's group or the recognized greyhound owners' group, or both, as appropriate;

(4) for the calendar year, the proposed schedule of simulcast races or programs that the applicant or applicants plan to simulcast into the facility for as much of the calendar year as the respective horsemen's group and greyhound owners' group have approved. The application shall state the proposed simulcasting schedule as approved by the respective horsemen's group and greyhound owners' group for the entire calendar year when it is filed with the commission;

(5) for the calendar year, the proposed schedule of races or programs that the applicant or applicants plan to simulcast from the racetrack facility to any other racetrack facility, intertrack wagering facility, or off-track wagering facility, and a list of such facilities for as much of the calendar year as the respective horsemen's group and greyhound owners' group have approved. The application shall state the proposed simulcasting schedule as approved by the respective horsemen's group and greyhound owners' group for the entire calendar year when it is filed with the commission;

(6) certification that the applicant or applicants will comply with any provision of the interstate horse racing act of 1978 (15 U.S.C. 3001, *et seq.*) as in effect December

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31, 1991, and submit documentation of the compliance;

(7) certification that the applicant or applicants will comply with the 80% threshold requirement of K.S.A. 74-8836 for a live racing program if the applicant conducts fewer than 10 live horse races during any day or 13 live greyhound races during any performance;

(8) one copy of each contract or agreement that the applicant has executed or proposes to execute and any modification or proposed modification of each contract or agreement with regard to the simulcasting license or races or wagering on the simulcast races. If the contract or agreement is an oral one, a written statement explaining the substance of the oral agreement shall be included;

(9) the names and addresses of the parties to each contract or agreement identified in paragraph (8) and any relationship of the parties to the applicant, the partners, associates, officers, directors, and principal owners either through family, business association, or other control;

(10) any plan to participate in a combined wagering pool, including the following information:

(A) the time and date of the races or programs for which combined pooling is planned;

(B) a description of the totalisator services to be used by the guest facility and host facility;

(C) a description of the backup communication device or procedure that would be used to communicate wagering information between the guest facility and host facility if the totalisator system or data line telephone system fails;

(D) a description of the data line or telephone line communication system to be used by the guest facility and the host facility;

(E) a description of the wagers that the applicant or applicants intend to offer on the races; and

(F) a description of the takeout rates requested for the combined wagering pool;

(11) a description of each special racing event that the applicant or applicants plan to simulcast;

(12) a statement describing how the granting of a simulcasting license to the applicant or applicants will enhance the breeding, owning, and training industries for horses or greyhounds; and

(13) a description of the impact that the proposed simulcasting will have on live racing and purses at the applicant's or applicants' racetrack facility.

(b) Each application shall describe the following factors, which may be considered by the commission in determining whether to grant or deny the application:

(1) the financial stability of the applicant or applicants and the effect that simulcasting will have on the economic viability of the applicant or applicants;

(2) the operating experience of the applicant or applicants;

(3) the regulatory compliance and conduct of the applicant or applicants; and

(4) the impact of the applicant's or applicants' proposed simulcasting on live racing and on purses at the racetrack facility.

(c) Upon receipt of a written request from an organization licensee, any facility owner, a recognized horsemen's group, or recognized greyhound group to submit a simulcasting dispute to the commission for determination pursuant to K.S.A. 74-8836(k), such proceedings shall be conducted by the commission in accordance with the Kansas administrative procedure act. (Authorized by and implementing K.S.A. 1996 Supp. 74-8804; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended July 25, 1997.)

112-18-4. Special racing events. As used in these racing regulations, unless the context otherwise requires, special racing events are:

(a) the breeders cup races;

(b) the breeders crown races;

(c) the breeders classic races;

(d) any event of the triple crown;

(e) the greyhound race of champions;

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(f) any horse race with a purse of \$100,000 or more;

(g) any greyhound race with a purse of \$35,000 or more; or

(h) any grade I or II horse race. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-5. Report of expenses and allocation of purse monies between horses and greyhounds. Within five days of the completion of any simulcast race or program, each simulcasting licensee shall report in writing the simulcast expenses and revenues or an estimate of the simulcast expenses and revenues to the inspector of parimutuels or his designee. Each report shall detail those expenses incurred by the licensee that are directly related to the simulcast race or program. Each report shall itemize the monies available for purses and how they will be allocated between horses and greyhounds. Immediately upon receipt of expense billings, each licensee shall submit to the inspector of parimutuels a written report of actual simulcast expenses for those expenses previously estimated. Each licensee shall reconcile estimated and actual expenses weekly. Each report of expenses and allocation of purse monies shall be subject to audit by the commission. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-6. Expenses. (a) For simulcasting, expenses shall include:

(1) the actual amount paid by a simulcasting licensee to a racetrack for the use of its simulcast race or program;

(2) the actual amount paid by a simulcasting licensee for a decoder to descramble a simulcast signal received from a satellite. If a decoder is used for more than one race or program, the expense shall be prorated;

(3) the actual cost of installation for data lines for the purpose of combined wagering pools, prorated over a one-year period beginning with the first race or program in which the licensee participates in a combined wagering pool;

(4) the actual amount paid by the licensee for accounting services, wire transfer or like services approved by the executive director for the reconciliation of accounts, if the licensee participates in a combined wagering pool;

(5) the actual cost of a facsimile machine to be located in the totalisator room for the purpose of backup communication and manual merging, prorated when the licensee participates in a combined wagering pool and depreciated over not fewer than three years;

(6) the actual cost of one satellite receiving dish for receiving simulcast races, prorated per race or program and depreciated over not fewer than five years;

(7) the actual costs paid by the simulcasting licensee for long distance telephone service, for any dial-up computer phone lines and calls, for long distance telephone service for facsimile transmissions necessary for a combined wagering pool or for calls to the sending or host track's stewards' or judges' stand, mutuel room, totalisator room or track management offices as part of a simulcast race or program;

(8) the actual cost paid by a simulcasting licensee for totalisator interface fees for a simulcast race or program;

(9) the actual cost paid by a simulcasting licensee for additional video fees incurred to provide patron information for a simulcast race or program;

(10) the actual cost paid by the simulcasting licensee to the racing form or like entity to acquire information on past performance lines;

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(11) the actual totalisator cost paid by the simulcasting licensee for the additional handle created by the simulcast race or program; and

(12) other costs, if the commission grants prior approval for the costs.

(b) Expenses claimed by the licensee shall not exceed the revenues received by the licensee for a simulcast race or program. No licensee shall carryover expenses from one simulcast race or program to a future simulcast race or program. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-7. Changes to approved simulcasting schedule. Any simulcasting licensee may apply to the commission or the executive director for changes in its approved simulcasting schedule. Each application for change in schedule shall be submitted 24 hours before the proposed simulcast race or program that is subject of the change. Each application shall state the reasons for the proposed change and shall include approval from the respective greyhound owners' group or recognized horsemen's group, or both, as appropriate. Each condition of a simulcasting license shall apply to any change in the simulcasting schedule. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-8. Fee for simulcasting race or performance. There shall be no additional race day fee for simulcast races or programs conducted on the same day as live races. Each simulcast race or program displayed on a day when live races are not conducted shall constitute a race day, and each simulcasting licensee shall pay a license fee for the simulcasting race day that is identical to the

license fee it pays for a live racing day. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2, and implementing K.S.A. 1991 Supp. 74-8813(g), as amended by L. 1992, Ch. 27, Sec. 5; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-9. Duties of receiving facility. (a) A simulcasting licensee that conducts parimutuel wagering on a simulcast race or program shall act as a receiving facility on those dates. Each receiving facility shall provide communication facilities, which shall include all wire, radio, optical, satellite, and other electromagnetic systems used to receive audio and visual transmissions between the sending racetrack, host facility, and receiving facility.

(b) Before the beginning of the transmission of the first simulcast race or program of each day, each receiving facility shall initiate a test program of its receiver, decoder, and data communication to ensure the proper operation of the system. If a test program run under this subsection is unsuccessful or indicates a malfunction of any component of the receiving system, the licensee shall not conduct parimutuel wagering on a simulcast race or program until a successful test program is completed.

(c) After each simulcast race or program, each receiving facility shall provide the reports of its parimutuel operations as required by K.A.R. 112-9-8 for both simulcast and live races. (Authorized by and implementing K.S.A. 74-8804 and 74-8836; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended Sept. 6, 1994; amended Oct. 17, 2003.)

112-18-10. Duties of sending racetrack. (a) A simulcasting licensee that simulcasts races conducted by the licensee acts as a sending racetrack on the dates the races or program are conducted and simulcast.

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(b) Each sending racetrack shall be responsible for the content of the simulcast and shall use all reasonable efforts to present a simulcast which offers the viewers an exemplary depiction of the performance, continuity of programming between racing events, and, if it is also acting at the host facility for a combined wagering pool, a periodic display of wagering information.

(c) Each sending racetrack shall provide transmission equipment of acceptable broadcast quality that does not interfere with the closed-circuit television system of the receiving location.

(d) The commission may require a simulcasting licensee to scramble its signal. If so required, each simulcast shall be encrypted using a time displacement decoding algorithm encryption system or an equivalent encryption system approved by the commission.

(e) Unless otherwise permitted by the commission, each simulcast must contain in its video content:

- (1) the date;
- (2) a digital display of the actual time of day at the sending racetrack;
- (3) the name of the sending racetrack;
- (4) the number of the race being displayed; and
- (5) any other relevant information available to patrons at the host racetrack.

(f) Before the beginning of the transmission of the first simulcast race or program of each day, each sending racetrack shall initiate a test program of its transmitter, encryption equipment and data communication to ensure proper operation of the system. If a test program run under this subsection is unsuccessful or indicates a malfunction of any component of the sending racetrack's system, the simulcasting licensee shall not transmit any races until a successful test program is completed. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3; implementing L. 1992, Ch. 27, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-11. Emergency procedures. (a) A simulcasting licensee shall not accept wagers

on a simulcast race until the simulcasting licensee is receiving the video signal from the sending racetrack. If the signal is not received, the simulcasting licensee shall establish a telephone linkup with the sending racetrack's stewards, racing judges, or simulcast official and shall announce to the patrons all pertinent information.

(b) If the simulcasting licensee loses the video signal from the sending racetrack, the simulcasting licensee shall immediately notify the sending racetrack of the lost signal.

(c) If the video signal is lost after wagering has commenced, wagering shall be suspended while it is determined if the signal can be reestablished. An announcement shall be made to the patrons advising them that wagering has been temporarily suspended due to video problems. The results and prices of each race that goes post while the signal is lost shall be received through the tote linkup. An announcement of the results shall be made to the patrons.

(d) If the video signal cannot be reestablished, the simulcast licensee shall cease accepting wagers. The licensee may order a refund of all monies wagered on future races, or at the determination of the mutuel manager, the outstanding wagers on future races may remain in the system. If the decision is made to keep outstanding wagers in the system, a ticket list shall be run showing all outstanding wagers on the remainder of the performance. The mutuel manager shall verify the prices and results of all races in which there are outstanding wagers, and the results of these races shall be announced to the patrons.

(e) If the licensee loses the video signal as described above in subsection (c) or (d), the licensee shall file a written report with the inspector of parimutuels.

(f) Wagers that encompass more than one race shall be unaffected by signal problems encountered in any race of the sequence other than the first. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8836; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended Sept. 6, 1994; amended Jan. 11, 2002; amended Oct. 17, 2003.)

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112-18-12. Combined wagering pools, general provisions. (a) With the prior approval of the commission, parimutuel pools offered by a simulcasting licensee that participates in a simulcast may be combined with corresponding wagering pools offered by the other racetracks or facilities that participate in the simulcast to form a combined wagering pool.

(b) Each contract governing participation in a combined wagering pool shall be submitted to the commission for approval in accordance with K.A.R. 112-18-3(a)(8).

(c) In determining whether to approve an interstate combined wagering pool that does not include the sending racetrack, the commission shall consider, and may approve, the use of a wager that is not used at the sending racetrack.

(d) Any wager that has been approved for the use of the simulcasting licensee may be offered, although types of pools that require more races than those included in the simulcast may not become part of the combined wagering pool.

(e) The content and format of the visual display of racing and wagering information at facilities in other racing jurisdictions in an interstate combined wagering pool need not be identical to the information required to be displayed by these racing regulations. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-13. Formation of combined wagering pool. (a) Wagering data shall be transmitted through one of the methods authorized by this paragraph in the following order of preference:

- (1) via a dedicated leased line data circuit;
- (2) via a dial-up data circuit;
- (3) via telecopy or facsimile machine on a separate telephone line; or
- (4) by voice via cellular or dial-up telephone.

(b) Each guest and host facility shall have adequate equipment to transmit the wagering

data by any of the methods listed in paragraph (a) of this regulation.

(c) Except as otherwise provided in this paragraph, the odds and prices for a combined wagering pool shall be calculated in accordance with the laws of the jurisdiction where the host facility is located. In determining the amount distributable to the wagers, each simulcasting licensee shall use the total takeout required in the jurisdiction where the host facility is located except as provided in 1992 SB 383, Sec. 2(j)(2). The simulcasting licensee may use the net pool pricing method for determining the payoff prices.

(d) Each simulcasting licensee shall ensure that the necessary records are maintained regarding the amounts wagered at its racetrack for accounting, auditing and reporting purposes. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-14. Distribution of combined wagering pools. (a) Each wager is made at the point of sale in the state where the wager is placed.

(b) Each payoff attributable to the simulcasting licensee shall be based on the actual winnings indicated by the totalisator wagering data.

(c) Each total takeout applicable to the wagers received in this state for a combined wagering pool shall be distributed in accordance with the Kansas parimutuel racing act. Each gain or loss caused by a difference in takeout totals shall be part of the simulcasting licensee's revenue or expense from the interstate simulcast.

(d) Each surcharge or other withholding, other than the takeout authorized by law, shall be applied only in the jurisdiction imposing the surcharge or withholding. (Authorized by K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; and implementing K.S.A. 1991 Supp.

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74-8823, as amended by L. 1992, Ch. 27, Sec. 10; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-15. Breakage, interstate combined wagering pool. The ratio of each simulcasting licensee's allocation of the breakage to the total breakage in an interstate combined wagering pool shall be equal to the ratio of the dollars contributed to the combined wagering pool from the simulcasting licensee to the total amount of the combined wagering pool. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-16. Report to commission, combined wagering pool. Each simulcasting licensee participating in a combined wagering pool shall submit to the commission a report on the pool not later than the close of the next business day after the date of the race or program for which the pool was formed. Each report shall contain:

- (1) the total amount of the combined wagering pool;
- (2) the total amount of the combined wagering pool generated by wagers received in this state;
- (3) the total winnings for the combined wagering pool;
- (4) the total winnings attributable to wagers received in this state;
- (5) the total commission derived from the combined wagering pool; and
- (6) the total commission derived from the simulcasting licensee's share of the combined wagering pool. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-17. Manual merge. (a) If the guest facility's computer system fails to adequately transmit wagering data to the host facility, and a manual merge will not endanger the pools at the host facility, the host facility may manually merge the pools.

(1) To merge the pools manually, each guest facility's parimutuel representative shall notify the host facility via telecopy or facsimile machine of:

- (A) the total amount in the pool;
- (B) the total dollars on winning wagers; and
- (C) the total dollars on the losing wagers in the pool.

(2) For purposes of declaring the race official, the following individuals shall be notified when the procedure is complete:

- (A) the stewards, racing judges or simulcast official at the sending racetrack; and
- (B) the stewards, racing judges or simulcast official at both the host facility, if different from the sending racetrack, and guest facility. (Authorized by and implementing K.S.A. 1993 Supp. 74-8804; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended Sept. 6, 1994.)

112-18-18. Failure to merge. (a) Except as otherwise provided by this regulation, if it becomes impossible to successfully merge a guest facility's wagers in the combined wagering pool, the simulcasting licensee may either order a refund of all monies wagered or calculate the pool as a separate pool to be distributed in accordance with the Kansas parimutuel racing act, including takeout. However, each pool containing a carry-over feature or a type of wager not available in Kansas shall be refunded.

(1) As soon as failure to merge is acknowledged, a parimutuel representative at the guest facility shall notify the simulcast coordinator.

(2) The simulcast coordinator shall immediately make an announcement to the

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patrons via intercom or TV monitors, explaining the circumstances.

(b) Each simulcast licensee shall be required to advise patrons of its failure-to-merge policy by prominently displaying notice in the wagering areas, other special patron areas, and the official racing program.

(c) Each contract for combined wagering pools entered into by a simulcasting licensee shall contain a provision stating that the simulcasting licensee is not liable for any measures taken that could result in a guest facility's wagers not being accepted into a combined wagering pool formed by the licensee if either of the following occurs:

(1) It becomes impossible to successfully merge the wagers placed in another state in the combined wagering pool formed by the simulcasting licensee.

(2) The commission's or simulcasting licensee's representative determines that attempting to transfer pool data from the guest facility will endanger the simulcasting licensee's wagering pool. (Authorized by K.S.A. 74-8804; implementing K.S.A. 74-8836; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992; amended Sept. 6, 1994; amended Oct. 17, 2003.)

112-18-19. Responsibility for the accuracy of transmitted wagering data. The accuracy of all transmitted wagering data shall be the responsibility of the host facility. Responsibility will shift to a guest facility if the transmission of incorrect data would have been detected had the guest facility properly confirmed the transmitted check sum. (Authorized by and implementing K.S.A. 1991 Supp. 74-8804, as amended by L. 1992, Ch. 27, Sec. 3, and L. 1992, Ch. 286, Sec. 2; effective, T-112-4-27-92, April 27, 1992; effective, T-112-9-10-92, Sept. 10, 1992; effective Nov. 23, 1992.)

112-18-20. Accuracy of payoffs. The simulcast licensee may delay paying mutuel

tickets until the accuracy of the payoffs is confirmed. (Authorized by and implementing K.S.A. 1993 Supp. 74-8804; effective Sept. 6, 1994.)

112-18-21. Election and recognition of recognized greyhound owners' group. (a) Each recognized greyhound owners' group for each racetrack facility licensed by the Kansas racing and gaming commission shall be elected pursuant to K.S.A. 74-8802(ff), and amendments thereto.

(b) Each recognized greyhound owners' group shall be duly recognized by the commission before assuming any duties concerning the approval of any simulcast schedule proposed by an organization licensee.

(c) Only one group for greyhound owners as appropriate for each race meeting shall be recognized by the commission for the purpose of serving at each racetrack facility.

(d) Each recognized greyhound owners' group shall be responsible for performing the following:

(1) Negotiating agreements pertaining to simulcast license applications;

(2) signing simulcast license applications pursuant to K.S.A. 74-8836(d)(2), and amendments thereto; and

(3) determining how the purse money will be distributed for horse and greyhound purses pursuant to K.S.A. 74-8836(g)(3) and (4), and amendments thereto.

(e) Each recognized greyhound owners' group shall consist of five individuals elected in accordance with this regulation.

(f) Elections for recognized greyhound owners' groups shall commence on August 1 of each odd-numbered year unless held sooner according to the provisions of subsection (k) of this regulation.

(g) Except as otherwise provided in this regulation or by commission order, each member of a greyhound owners' group shall serve a term of two years, commencing on October 1 of the year in which the recognized greyhound owners' group is elected, and ending on September 30 of the next odd-

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numbered year or until the member's successor has been duly elected and recognized by the commission after the commission is presented with a petition in accordance with subsection (k) of this regulation.

(h) To be eligible to vote in the election process at the racetrack facility where the recognized greyhound owners' group is to serve, a voter shall have been a licensed greyhound owner or kennel owner participating as an owner on and after December 1 of the year before the election and through July 31 of the election year, and shall have raced at that racetrack facility on and after January 1 and through July 31 of the election year.

(i) The procedure for conducting an election of a recognized greyhound owners' group shall be as follows:

(1) On August 1 of each odd-numbered year, a notice of elections to be held for a recognized greyhound owners' group for the racetrack facility in question shall be posted conspicuously by the commission or its designee, if any, pursuant to K.S.A. 74-8802(ff), and amendments thereto. The notice shall be posted throughout each racetrack facility, including the following:

(A) The racing office;

(B) the commission offices; and

(C) any other places greyhound owners are known to congregate. Notice of elections to be held may also be published in one or more greyhound parimutuel industry publications at the commission's direction.

(2) On August 1 of each odd-numbered year, the notice of elections to be held shall be mailed by the commission or its designee, if any, pursuant to K.S.A. 74-8802(ff), and amendments thereto, by depositing the notice in the United States mail, first-class postage prepaid, to each eligible voter at the eligible voter's last known address appearing in the records of the Kansas racing and gaming commission.

(3) Nominating petitions shall be made available by the commission or its designee, if any, pursuant to K.S.A. 74-8802(ff), and amendments thereto, for distribution to any eligible voter upon request in the Kansas racing

and gaming commission office. The nominating petitions shall be in a form approved by the commission for the purpose of nominating individuals to stand for election to a recognized greyhound owners' group. The nominating petitions shall contain a statement signed by the nominee that the nominee agrees to perform the following:

(A) Serve as a member of the recognized group for which the nominee is standing for election;

(B) be reasonably available to attend meetings of the recognized group for which the nominee is standing for election;

(C) bargain in good faith as a member of the recognized group for which the nominee is standing for election; and

(D) obtain the signatures of three other eligible voters on the nominating petition.

(4) Nominating petitions for election to a recognized greyhound owners' group shall be returned to the Kansas racing and gaming commission office in Topeka by 12 o'clock noon of the third Friday following the first Monday in August following the posting of the notice of election required by paragraph (i)(1) of this regulation.

(5) After the close of the nominating period prescribed in paragraph (i)(4) of this regulation, the nominating petitions shall be reviewed by commission staff or its designee, if any, pursuant to K.S.A. 74-8802(ff) and amendments thereto, in accordance with procedures approved by the commission to confirm the following:

(A) That the signatures on the nominating petitions appear on the list of eligible voters in the records of the Kansas racing and gaming commission; and

(B) that the required number of signatures of eligible voters has been received by each nominee.

(6) Once the nominating petitions have been processed by the commission staff or its designee, if any, pursuant to K.S.A. 74-8802(ff), and amendments thereto, a ballot shall be prepared by the commission that shall include the following:

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(A) A list of names of the duly nominated persons standing for election to the recognized group;

(B) a serial number;

(C) a statement that the voter shall vote for no more than five nominees;

(D) a statement that the five nominees receiving the highest number of votes from those voting in the election shall be elected to serve as the recognized greyhound owners' group for the racetrack facility at which the election is being conducted for the term provided in subsection (g) of this regulation;

(E) a statement that if one or more of the members elected to the recognized greyhound owners' group resigns or for any other reason fails to complete the term of service as provided in subsection (g) of this regulation, then the member or members shall be replaced by the nominee or nominees having received the next highest number of votes from those voting in the election. The nominee or nominees shall serve out the remainder of the term for any member or members who failed to complete the member's or members' term; and

(F) a statement that proxy voting shall not be permitted.

(7) On or before September 1 of each odd-numbered year following the preparation of the ballots as prescribed by paragraph (i)(6) of this regulation the following actions shall be performed by the commission or its designee, if any, pursuant to K.S.A. 74-8802(ff) and amendments thereto:

(A) Conspicuously post copies of the ballot clearly and indelibly marked "SAMPLE" throughout each racetrack facility, including the following:

(i) The racing office;

(ii) the commission offices; and

(iii) any other places greyhound owners are known to congregate; and

(B) mail official ballots to each voter who is eligible to vote, by depositing the ballot in the United States mail, first-class postage prepaid, to each voter's last known address as shown in the records of the Kansas racing and gaming commission.

(8) Ballots shall be returned to the Kansas racing and gaming commission office in Topeka by 12 o'clock noon of the third Friday following the first Monday in September following the posting of the sample ballot as required by paragraph (i)(7)(A) of this regulation.

(9) On the Wednesday following the deadline set out in paragraph (i)(8) above, an open meeting shall be convened by the commission chairperson, executive director, and general counsel at the commission offices, and the ballots shall be counted by these individuals.

(10) In the event of a tie in the number of votes received by one or more nominees, lots shall be cast to settle the election results.

(11) Ten days following the counting of the ballots or as soon thereafter as the commission meeting schedule will permit, a certificate of election shall be executed by the commission to each of the five nominees receiving the highest number of votes designating those nominees as duly elected members of a recognized greyhound owners' group having been elected in accordance with this regulation.

(j) Within 10 days following the counting of the ballots in any election held pursuant to this regulation, any commission staff member, nominee, or eligible voter may file a sworn complaint with the commission concerning the conduct in any election held pursuant to this regulation. A hearing shall be commenced by the commission upon the receipt of a complaint in accordance with the Kansas administrative procedure act, K.S.A. 77-501 et seq. The filing of a complaint with the commission concerning the conduct in an election held pursuant to this regulation shall not impair or inhibit the duly elected recognized group from functioning, pending resolution of the complaint.

(k) No election for a recognized greyhound owners' group that is conducted within 24 months of a prior election shall be recognized by the commission, except upon the filing of a petition with the commission to conduct a new election signed by at least 30

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percent of the number of eligible voters that actually voted in the preceding election.

(l) Upon receipt of a petition for a new election signed by the required number of voters set out in subsection (k) above, an election for a new recognized greyhound owners' group shall be conducted by the commission as soon as practicable in accordance with this regulation. (Authorized by K.S.A. 1999 Supp. 74-8804; implementing K.S.A. 1999 Supp. 74-8802 and K.S.A. 1999 Supp. 74-8836; effective Nov. 1, 1996; amended Jan. 30, 1998; amended Aug. 25, 2000.)

112-18-22. Election and recognition of recognized horsemen's group. (a) Each recognized horsemen's group for each racetrack facility licensed by the Kansas racing and gaming commission shall be elected pursuant to K.S.A. 74-8802(gg) and amendments thereto.

(b) Each recognized horsemen's group shall be duly recognized by the commission before assuming any duties concerning the approval of any simulcast schedule proposed by an organization licensee.

(c) Only one group for horsemen as appropriate for each race meeting shall be recognized by the commission for the purpose of serving at each racetrack facility.

(d) Each recognized horsemen's group shall be responsible for performing the following:

(1) Negotiating agreements pertaining to simulcast license applications;

(2) signing simulcast license applications pursuant to K.S.A. 74-8836(d)(2), and amendments thereto; and

(3) determining how the purse money shall be distributed for horse and greyhound purses pursuant to K.S.A. 74-8836(g)(3) and (4) and amendments thereto.

(e) Each recognized horsemen's group shall consist of five individuals elected in accordance with this regulation.

(f) Elections for recognized horsemen's groups shall commence on August 1 of each

even-numbered year unless held sooner pursuant to the provisions of subsection (k) of this regulation.

(g) Except as otherwise provided in this regulation or by commission order, each member of a recognized horsemen's group shall serve a term of two years, commencing on October 1 of the year in which the recognized horsemen's group is elected, and ending on September 30 of the next even-numbered year or until the member's successor has been duly elected and recognized by the commission after the commission is presented with a petition in accordance with subsection (k) of this regulation.

(h) To be eligible to vote in the election process at the racetrack facility where the recognized horsemen's group is to serve, a voter shall have been licensed as a horse owner or trainer and have raced at that racetrack facility during the year preceding the election year.

(i) The procedure for conducting an election of a recognized horsemen's group shall be as follows:

(1) On August 1 of each even-numbered year, a notice of elections to be held for a recognized horsemen's group for the racetrack facility in question shall be posted conspicuously by the commission or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto. The notice shall be posted throughout each racetrack facility, including the following:

(A) The racing office;

(B) the commission offices; and

(C) any other places horsemen are known to congregate. Notice of elections to be held may also be published in one or more horse parimutuel industry publications at the commission's discretion.

(2) On August 1 of each even-numbered year, the notice of elections to be held shall be mailed by the commission or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, by depositing the notice in the United States mail, first-class postage prepaid, to each eligible voter at the eligible voter's last known address appearing in the

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records of the Kansas racing and gaming commission.

(3) Nominating petitions shall be made available by the commission or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, for distribution to any eligible voter upon request in the Kansas racing and gaming commission office. The nominating petitions shall be in a form approved by the commission for the purpose of nominating individuals to stand for election to a recognized horsemen's group. The nominating petitions shall contain a statement signed by the nominee that the nominee agrees to perform the following:

(A) Serve as a member of the recognized group for which the nominee is standing for election;

(B) be reasonably available to attend meetings of the recognized group for which the nominee is standing for election;

(C) bargain in good faith as a member of the recognized group for which the nominee is standing for election; and

(D) obtain the signature of 10 other eligible voters on the nominating petition.

(4) Nominating petitions for election to a recognized horsemen's group shall be returned to the Kansas racing and gaming commission office in Topeka by 12 o'clock noon of the third Friday following the first Monday in August following the posting of the notice of election required by paragraph (i)(1) of this regulation.

(5) After the close of the nominating period prescribed in paragraph (i)(4) of this regulation, the nominating petitions shall be reviewed by the commission staff or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, in accordance with procedures approved by the commission to confirm the following:

(A) That the signatures on the nominating petitions appear on the list of eligible voters in the records of the Kansas racing and gaming commission; and

(B) that the required number of signatures of eligible voters has been received by each nominee.

(6) Once the nominating petitions have been processed by the commission staff or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, a ballot shall be prepared by the commission, which shall include the following:

(A) A list of names of the duly nominated persons standing for election to the recognized group;

(B) a serial number;

(C) a statement that the voter shall vote for no more than five nominees;

(D) a statement that the five nominees receiving the highest number of votes from those voting in the election shall be elected to serve as the recognized horsemen's group for the racetrack facility at which the election is being conducted for the term provided in subsection (g) of this regulation;

(E) a statement that if one or more of the members elected to the recognized horsemen's group resigns or for any other reason fails to complete the term of service as provided in subsection (g) of this regulation, then the member or members shall be replaced by the nominee or nominees having received the next highest number of votes from those voting in the election. The nominee or nominees shall serve out the remainder of the term of any member or members who failed to complete the member's or members' term; and

(F) a statement that proxy voting shall not be permitted.

(7) The commission or its designee, if any, pursuant to K.S.A. 74-8802(gg), and amendments thereto, shall perform the following on or before September 1 of each even-numbered year following the preparation of the ballots as prescribed by paragraph (i)(6) of this regulation:

(A) Conspicuously post copies of the ballot clearly and indelibly marked "SAMPLE" throughout each racetrack facility, including the following:

(i) The racing office;

(ii) the commission offices; and

(iii) any other places horsemen are known to congregate; and

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(B) mail official ballots to each voter who is eligible to vote, by depositing the ballots in the United States mail, first-class postage prepaid, to each voter's last known address as shown in the records of the Kansas racing and gaming commission.

(8) Ballots shall be returned to the Kansas racing and gaming commission office in Topeka by 12 o'clock noon of the third Friday following the first Monday in September following the posting of the sample ballot as required by paragraph (i)(7)(A) of this regulation.

(9) On the Wednesday following the deadline set out in paragraph (i)(8) above, the commission chairman, executive director, and general counsel shall convene an open meeting at the commission offices and count the ballots.

(10) In the event of a tie in the number of votes received by one or more nominees, lots shall be cast to settle the election results.

(11) Ten days following the counting of the ballots or as soon thereafter as the commission meeting schedule will permit, a certificate of election shall be executed by the commission to each of the five nominees receiving the highest number of votes designating those nominees as duly elected members of a recognized horsemen's group having been elected in accordance with this regulation.

(j) Within 10 days following the counting of the ballots in any election held pursuant to this regulation, any commission staff member, nominee, or eligible voter may file a sworn complaint with the commission concerning the conduct in any election held pursuant to this regulation. A hearing shall be commenced by the commission upon the receipt of a complaint, in accordance with the Kansas administrative procedure act, K.S.A. 77-501 *et seq.* The filing of a complaint with the commission concerning the conduct in an election held pursuant to this regulation shall not impair or inhibit the duly elected recognized group from functioning pending resolution of the complaint.

(k) No election for a recognized horsemen's group that is conducted within 24 months of a prior election shall be recognized

by the commission, except upon the filing of a petition with the commission to conduct a new election, signed by at least 30 percent of the number of eligible voters that actually voted in the preceding election.

(l) Upon receipt of a petition for a new election signed by the required number of voters set out in subsection (k) above, an election for a new recognized horsemen's group shall be conducted by the commission as soon as practicable in accordance with this regulation. (Authorized by K.S.A. 1998 Supp. 74-8804; implementing K.S.A. 1998 Supp. 74-8802 and K.S.A. 1998 Supp. 74-8836; effective Nov. 1, 1996; amended Feb. 11, 2000.)